

CALENDAR ITEM

C23

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PRC 4896.1

M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Margaret Z. Unger and Lynne U. Yackzan, Trustees of the Margaret Z. Unger Trust established pursuant to the Unger Family Revocable Trust – 1991, dated June 5, 1991; Evan C. Unger, Bruce F. Unger, and Lynne U. Yackzan, as Trustees of the Dean F. Unger 2009 Trust dated December 30, 2009; Bruce F. Unger and Lisa Cordone Unger, as Trustees of the 2009 Unger Family Trust dated November 13, 2009; Evan Charles Unger and Lynne Unger Yackzan

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to Assessor's Parcel Number 092-180-008, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, two boat hoists, and one boat lift.

LEASE TERM:

10 years, beginning March 1, 2017.

CONSIDERATION:

\$312 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair public access or uses.
3. Lessee must maintain continuous authorization from the littoral property owner, Cedar Flat Improvement Association (Association),

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to use, maintain, and access the pier. The lease shall terminate if the Association's consent lapses or is revoked and is not reinstated within 60 days.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Beset Interests Analysis:

On October 22, 2009, the Commission authorized a 10-year General Lease – Recreational Use, Lease No. PRC 4896.1, for an existing pier, two boat hoists, and one boat lift to Dean F. Unger and Margaret Z. Unger, as Trustees of the Unger Family Revocable Trust – 1991, dated June 5, 1991 ([Calendar Item 45, October 22, 2009](#)). That lease expired on February 28, 2017. Prior to expiration of the lease, Dean F. Unger died and Margaret Z. Unger deeded some of the ownership interests held by the trust to additional trusts within the Unger Family. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of an existing pier, two boat hoists, and one boat lift.

The Applicant owns a non-littoral parcel located at 4320 North Lake Boulevard. The Association owns the parcel located between the non-littoral parcel and Lake Tahoe. The Applicant has the right to use the upland adjoining the lease premises limited to the access, use, and maintenance of the Applicant's pier.

The subject facilities are privately owned and maintained. The pier, two boat hoists, and one boat lift are used for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings, meaning the public may navigate or walk next to and, at lower water levels, under the pier. The immediate area of the existing pier is gently sloped with cobblestones along the shore.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon

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termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

CALENDAR ITEM NO. **C23** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning March 1, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier, two boat hoists, and one boat lift, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$312, with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

EXHIBIT A

PRC 4896.1

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 28, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

All those lands underlying an existing pier, catwalk, boat lift and two boat hoists lying adjacent to that parcel described in the Grant Deed recorded September 8, 2016 as Document Number 2016-0075085-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFORM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 02/03/2017 by the California State Lands Commission Boundary Unit.



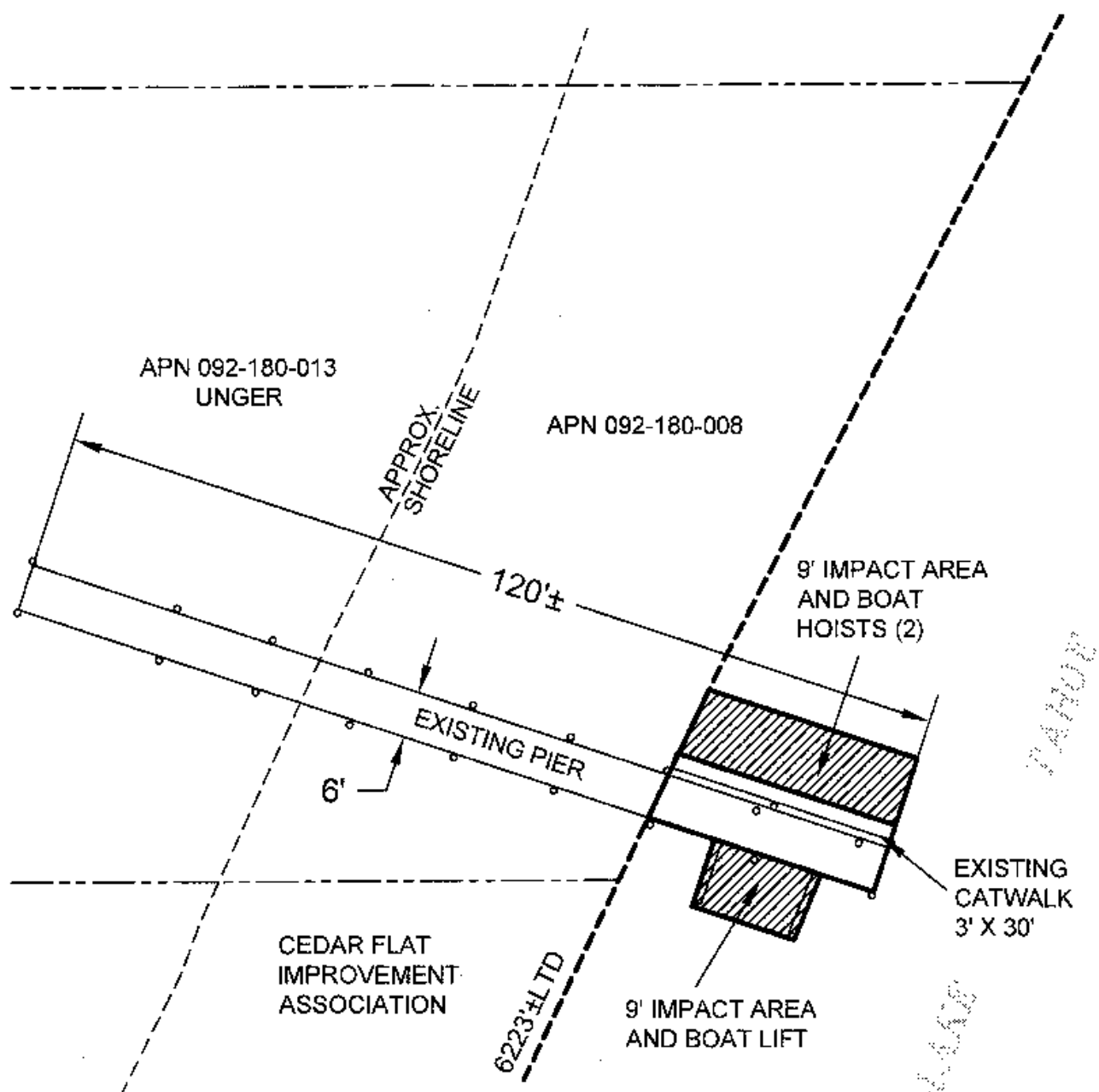


EXHIBIT A

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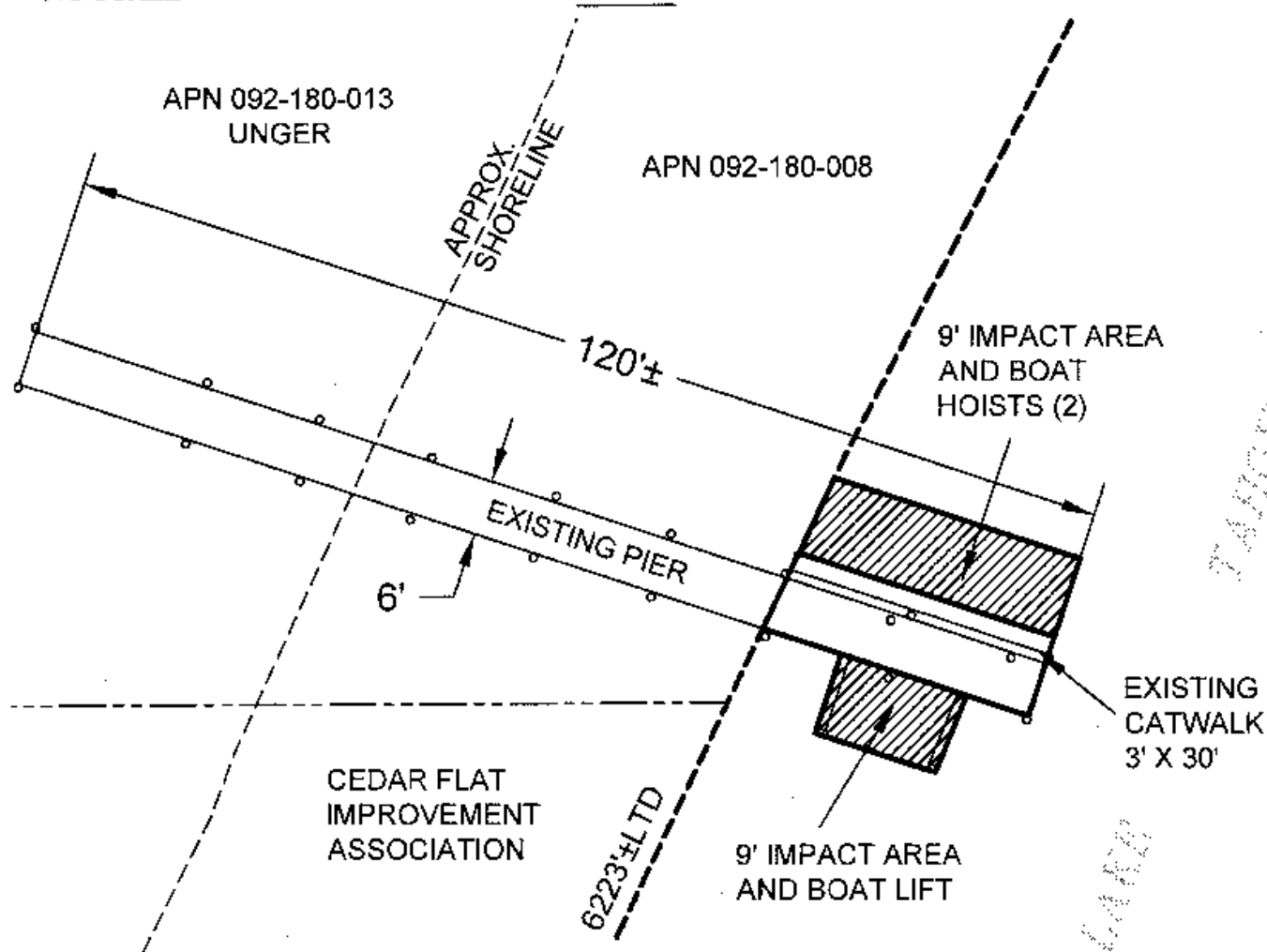
LAND DESCRIPTION PLAT
PRC 4896.1, UNGER
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

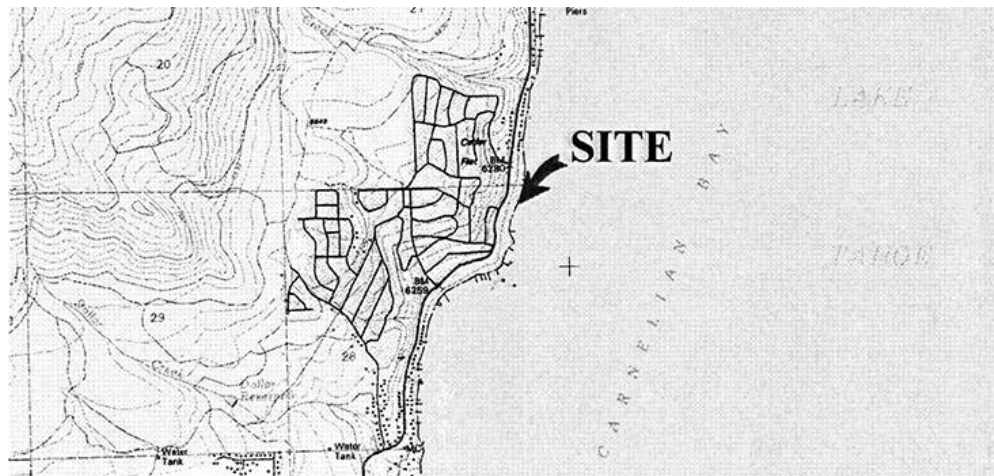
SITE



4320 North Lake Blvd, near Carnelian Bay

NO SCALE

LOCATION



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

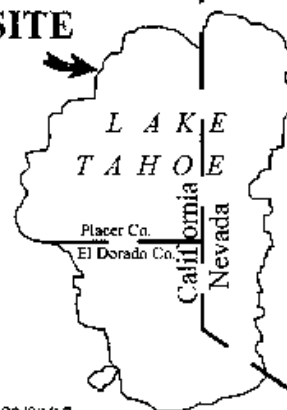
PRC 4896.1

UNGER

APN 092-180-013

GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



RPF02/03/17